

MEMORANDUM

March 15, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ADRIENNE M. BYERS *AMB*
Principal Deputy County Counsel
Public Works Division

RE: Alameda Truck & Van Parts, Inc., A California Corp, et al. v.
County of Los Angeles, et al.,
Los Angeles Superior Court Case No. BC 312 566

DATE OF
INCIDENT: September 1998 – February 2002

AUTHORITY
REQUESTED: \$30,000

COUNTY Department of Public Works
DEPARTMENT:

CLAIMS BOARD ACTION:

☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval

ABSENT, Chief Administrative Office
ROCKY ARMFIELD

John F. Krattli, County Counsel
JOHN F. KRATTLI

Maria M. Oms, Auditor-Controller
MARIA M. OMS

on April 3, 2006

SUMMARY

This is a recommendation to settle for \$30,000 a lawsuit filed by Plaintiffs Alameda Truck & Van Parts, Inc., Alco Truck & Auto, Inc., and Shay Neuman-Nadler, dba Truck Wrecking.com (hereinafter collectively "Plaintiffs") against the County of Los Angeles ("County") for economic damages to their businesses allegedly caused by the County's construction activities along Alameda Street in the unincorporated Wilmington area of the County.

LEGAL PRINCIPLES

A public entity is liable in inverse condemnation for a substantial, unreasonable interference with access to and from private property as a result of a public work. A public entity is liable in inverse condemnation when it substantially participates in the design or construction of a public work which, as designed and constructed, causes damage to private property. A public entity found liable in inverse condemnation is responsible for the plaintiff's attorneys fees and litigation costs.

SUMMARY OF FACTS

Plaintiffs filed this action in inverse condemnation against the County, the City of Los Angeles ("City"), and the State of California ("Caltrans") on March 23, 2004. Plaintiffs seek damages to their businesses, claiming that they lost customers as a result of "a major public works project known as, or related to, the Alameda Corridor Project," spanning over a six-mile stretch of Alameda Street.

Plaintiffs leased properties at 1230, 1230-B, and 1248 Alameda Street, just south of Pacific Coast Highway ("PCH") in the City of Los Angeles. Plaintiffs operate truck and automobile-parts businesses Alco Truck & Auto, Inc., Alameda Truck & Van Parts, Inc., and Truck Wrecking.com, an internet sales business. Plaintiffs allege that, due to "the construction and reconstruction of Alameda Street immediately abutting Plaintiffs' properties, and for many miles in either direction," their customers were "discouraged from patronizing" Plaintiffs' businesses because of traffic detours along Alameda Street ("Alameda") from 1997 through 2002. As a result, Plaintiffs allege they suffered diminution in the goodwill value of their businesses during that time.

The Alameda Corridor Project consisted of railroad-related improvements that run parallel to Alameda. Associated highway projects south of the 91 freeway, known as the Ports Access Demonstration Projects ("PADP"),

were carried out by Caltrans, the Los Angeles County Metropolitan Transportation Authority, the County, various cities in the County, the ports of Los Angeles and Long Beach, and the railroad companies.

During the time the Alameda Corridor Project and the PADP were being carried out, the County administered three separate street-improvement projects along Alameda in the vicinity of those projects. The County projects had separate County-issued construction contracts, contractors, and budgets.

Although the County participated in community meetings with the other public entities during the Alameda construction, there was no agreement or other formal relationship between the County and the other entities, as each entity performed the work in its own jurisdiction. The County completed the last of its projects along Alameda in 2002.

Plaintiffs' main complaint against the County in this litigation concerns the County's street-construction activities along Alameda between 1997 and 1999. The County closed the southbound lanes of Alameda between Lomita and Sepulveda from December 1997 to September 1998, and created two traffic detours to the east and west of Alameda. Plaintiffs had physical access to and from their property at all times during the construction project. However, Plaintiffs contend that the closure of Alameda at Sepulveda, just over a mile away from their property, was unreasonable, and caused their customers to get lost going to their businesses, or not visit their businesses at all. Although this County project ended in 1999, Plaintiffs contend that it was part of one large project, which ended in 2002. Plaintiffs also contend that the County's street improvement projects were part of one collective multi-public entity undertaking to improve transportation to the Port.

DAMAGES

Plaintiffs contend that their businesses suffered a loss of fair market value in excess of \$500,000. Plaintiffs are also seeking experts' and attorneys' fees of at least \$100,000.

STATUS OF CASE

This case was originally set for trial in January 2006. The County has vigorously defended this litigation. In addition to conducting written discovery and depositions, the County filed a motion in September 2005, seeking to defeat or severely limit Plaintiffs' claims for damages and liability. Shortly after the County filed its motion, Plaintiffs reopened settlement discussions, resulting in this proposed settlement agreement.


Under the proposed settlement, the County and City would each pay Plaintiffs \$30,000; and Caltrans would pay the Plaintiffs \$25,000. The County has incurred approximately \$80,000 in in-house legal fees and expert costs to date.

EVALUATION

While we believe the preponderance of the evidence will show: 1) that the County's street detours did not cause an unreasonable, substantial impairment of access to Plaintiffs' businesses; 2) that the detours did not cause Plaintiffs' businesses to suffer diminution in value; and 3) that the three County improvement projects along Alameda were not a part of a joint project with Caltrans or the City. We also recognize that a trier of fact could find otherwise.

A potential finding of liability, when combined with an award of attorneys' and experts' fees, as well as the costs to defend the County at trial, would greatly exceed the recommended settlement amount. In light of the substantial costs and risks of proceeding to trial, we recommend that this litigation be settled. The Department of Public Works concurs with this recommendation.

APPROVED:


KAREN A. LICHTENBERG
Assistant County Counsel
Public Works Division

AMB:mh